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April 12, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *GC Docket No. 96,42, Implementation of Section 273(d)(5) as amended by the Telecommunications Act of 1996 - Dispute Resolution Regarding Equipment Standards*

On behalf of Pacific Bell, please find enclosed an original and six copies of its "Reply Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

GINA HARRISON /AFC

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Implementation of Section 273(d)(5) as amended by the Telecommunications Act of 1996 - Dispute Resolution Regarding Equipment Standards	GC Docket No. 96-42

Reply Comments of Pacific Bell

Pacific Bell submits its reply to comments filed in the above-referenced proceeding in response to the Commission's Notice of Proposed Rulemaking. To implement Section 273(d) of the Telecommunications Act,[1] the Commission has proposed binding arbitration as a mutually satisfactory dispute resolution process to be used to resolve technical disputes between non-accredited standards bodies and parties developing standards or generic requirements work if the parties are themselves unable to agree to a dispute resolution process.

We agree with Bellcore, the Telecommunications Industry Association (TIA) and Corning, that mandatory arbitration is inherently flawed in resolving highly

[1] Telecommunications Act of 1996, Pub. L. No. 04-104, 110 Stat. 56(1996), §273 ("Act").

technical issues with industry-wide impact.[2] We further agree with Bell Atlantic's suggestion that the dispute resolution process "should ensure that the funding parties, that have the most at stake in the standard that is ultimately adopted, are the ultimate determiners of that standard."[3]

Both Corning and Bellcore have proposed alternatives to binding arbitration. These proposals attempt to resolve the deficiencies of the binding arbitration process. Corning's proposal which would have the Commission prescribe the use of a procedure based on American National Standards Institute (ANSI) procedures that refers disputes to appropriate ANSI-accredited Standards Development Organizations ("SDO"). Bellcore's proposal provides for a series of optional dispute resolution procedures that the parties that fund the standards development work ("funding parties") could choose from if they are unable to resolve technical disputes between them and the related non-accredited standards development organization.[4] The options are: 1) escalation within the issuing entity, which may choose not to continue to dispute the issue; 2) resolution by the majority of funders (excluding the disputant and non-accredited standards development organization); 3) non-binding mediation/recommendation by an expert advisory panel.[5]

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[2] Comments of Bell Communications Research, Inc., April 1, 1996 ("Bellcore"); Comments of Telecommunications Industry Association, April 1, 1996; Comments of Corning Incorporated, March 21, 1996 ("Corning").

[3] Comments of Bell Atlantic, April 1, 1996, pp. 1-2.

[4] Bellcore, p. 3.

[5] The expert panel could be made up of funding parties themselves, another body, such as an accredited standards body, or the default non-binding tripartite expert panel. Bellcore, p. 17.

Bellcore's proposal provides three significant advantages over the Corning proposal. First, the Bellcore proposal appropriately directs the ultimate decision to the funding parties, not to an unrelated ANSI-accredited SDO. The SDO, with its own possibly unrelated membership and with its own separate time-consuming procedures, will have no real stake in the decision and thus no real incentive to reach a technically correct resolution acceptable to the parties. Second, unlike the Corning proposal, the Bellcore proposal will not allow issues to go unresolved until "some future date". As Corning admits, if the SDO decides not to support the non-accredited standard organization's recommendation, the issue would remain open for final resolution at some future date.[6] That will not meet the Act's requirement that resolution occur within 30 days.[7] The issues likely to be subject to the mandatory dispute resolution process will be tough, critical ones. Moreover, Corning proposes that the carriers who, in the interim, "need to specify an attribute affected by an [unresolved issue] are free to do so"[8] but, on the other hand, Corning also advises that the carriers "solicit the views of individual vendors" [9] Corning's proposal will likely lead to proprietary solutions rather than to standards that permit the development of interoperable or interconnectable products by multiple vendors.

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[6] Corning, p. 9.

[7] Act, §273(d)(5).

[8] Corning, p. 9.

[9] Corning, p. 10.

Finally, the Bellcore proposal requires that "only a majority of the funding parties can reject the [resolution] report."[10] Requiring a majority before rejecting the resolution is important because a single disputant will not be able to veto the assessment of the majority in the development of standards.

For these reasons, we urge the Commission to adopt the Bellcore proposal as the process to resolve technical disputes between non-accredited standards bodies and standards development parties.

Respectfully submitted,

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Date: April 11, 1996

[10] Bellcore, p. 22.